



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/049,121	03/27/98	CLARK	R 2119-107P

002292 MMC1/0927
BIRCH STEWART KOLASCH & BIRCH
P O BOX 747
FALLS CHURCH VA 22040-0747

EXAMINER	
PHAN, J	
ART UNIT	PAPER NUMBER

2872

DATE MAILED:

09/27/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.
09/049,121

Applicant(s)
Clark et al

Examiner
James Phan

Group Art Unit
2872



☒ Responsive to communication(s) filed on Jul 19, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire ~three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-26 and 28-42 is/are pending in the application.

Of the above, claim(s) 19, 20, 30-32, 35, and 40-42 is/are withdrawn from consideration.

☒ Claim(s) 1-18 is/are allowed.

☒ Claim(s) 21-26, 33, 34, 36, 37, and 39 is/are rejected.

☒ Claim(s) 28, 29, and 38 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2872

Continued Prosecution Application

1. The request filed on 4/17/00 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/049,121 is acceptable and a CPA has been established. An action on the CPA follows.

Election/Restriction

2. Applicant's election with traverse of Group I including species (4) having the structure disclosed in Fig. 5 in Paper No. 19 is acknowledged. The traversal is on the ground(s) that there would be no serious burden on the examiner in examining all of claims 1-18, 21-26 and 28-42 together. This is not found persuasive because each of the patentably distinct species requires a separate search and thus, a serious burden on the examiner has been shown.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 6-8, 11, 16-20, 30-32, 35 and 40-42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species. Note that claims 6-8, 11, 16-18, 30-32, 35 and 40-42 do not read on the elected species.

Claim Rejections - 35 USC § 112

4. Claims 21, 25-26, 33-34, and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 2872

Claim 21 recites the limitation "said reflective surface" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.

Claims 25 and 26 recites the limitation "said substrate" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 33 recites the limitation "said reflective surface" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 39 recites the limitation "said spring" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 34 also rejected in that it is dependent on the indefinite claim 33 and thus inherits the deficiency above.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

6. Claims 21-24 and 36-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al. See Figs. 3A-3C and the accompanying text.

Art Unit: 2872

Allowable Subject Matter

7. Claims 1-18 are allowed. Note that claims 6-8, 11 and 16-18 have been rejoined by the examiner.
8. Claims 28-29 and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Claims 33-34 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Phan whose telephone number is (703) 308-4810. The fax phone number for this Group is (703) 308-7722.

Phan, J.

September 25, 2000


James Phan
Primary Examiner